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FIBER TECHNOLOGIES NETWORKS, L.L.C.)	
140 Allens Creek Road)	
Rochester, NY 14618)	
)	
Complainant,)	
)	
v.)	D.T.E. 01-70
)	
TOWN OF SHREWSBURY ELECTRIC)	
LIGHT PLANT)	
100 Maple Avenue)	
Shrewsbury, MA 01545-5398)	
)	
Respondents.)	
)	

Fiber Technologies Networks, L.L.C. requests that the Town of Shrewsbury Electric Light Plant provide the data, information, and documents described below. Fibertech incorporates by reference the Department's ground rules concerning information requests.

1. Each request should be answered on a separate page preceded by the request and by the name of the person responsible for the answer.
2. Please provide answers as they are completed.
3. These requests shall be deemed continuing so as to require supplemental responses if Town of Shrewsbury Electric Light Plant subsequently receives or becomes aware of additional information responsive to these requests.
4. If an answer refers to Town of Shrewsbury Electric Light Plant's response to another information request in this proceeding, please provide that response with the answer.

5. If Town of Shrewsbury Electric Light Plant cannot answer a request in full, answer to the extent possible and state why Town of Shrewsbury Electric Light Plant cannot answer the request in full.
6. If Town of Shrewsbury Electric Light Plant refuses to respond to any request by reason of a claim of privilege, state the privilege claimed and the facts relied upon to support the claim of privilege and the basis on which any records claimed as privileged are not public records.
7. Please refer to the definitions below in providing responses.
8. Each response should identify documents sufficient to demonstrate the grounds of the response and to permit Fibertech to locate or request such documents. Copies of such documents, with clear indication of the particular question to which each document or group of documents is responsive, may be produced in lieu of such identification.
9. If you cannot answer a question or any portion of a question, answer what portions you can answer and provide a detailed explanation as to why the remainder cannot be answered. If you cannot answer a question or portion of a question because you do not compile data or keep records in such a manner that permits you to answer the question, (a) state that as the reason and provide a detailed description of the manner in which you do compile the requested data or records; and (b) provide the best available data or information in whatever format it is kept.

Definitions

1. “Fibertech” refers to complainant Fiber Technologies Networks, L.L.C. and predecessors.
2. “SELP” refers to Town of Shrewsbury Electric Light Plant.
3. “Town” refers to the Town of Shrewsbury, Massachusetts and its geographical boundaries.
4. “Documents” includes all forms of records referred to in the Ground Rules issues in this proceeding, including writings in electronic form such as e-mails.

INFORMATION REQUESTS

1. Please produce all documents referring or relating to Fibertech in the possession of SELP, including but not limited to communications with the Town or any other parties regarding Fibertech.
2. Please identify all entities that have attachments on poles owned by SELP. Please specify the nature of such entity’s business and the basis on which it is a “utility” or a “licensee” within the meaning of M.G.L. c. 166 § 25A, and the number and type of attachments each such entity has.
3. Please identify all other entities other than those identified in response to Request No. 2 that have requested attachments to poles owned by SELP.
4. Please specify all services provided by SELP. For each such service, please state whether it uses cable or wires attached to poles in the Town. If such service uses pole attachments, state whether such attachments are located within the “power space.”
5. Please state whether SELP uses fiber optic cable. If so, describe the extent and use of SELP’s fiber optic facilities.
6. Please state whether SELP provides or has offered to provide dark fiber to any entity and, if so, identify when and to whom.
7. Please state whether SELP has plans for future services. If so, state whether any capacity of the poles is reserved for such future services.

8. Please identify all providers of telecommunications services (a) that provide service to end-users within the Town or (b) that have transmission facilities located within the Town, including wireless facilities; and specify when each such entity began providing service or transmission in the Town.
9. Please confirm that SELP's denial of Fibertech's request for pole attachments was not for any reasons of lack of capacity.
10. Please state whether SELP has the capacity on its poles to accommodate attachments for Fibertech fiber. If not, please explain in detail the capacity constraints on SELP's poles, produce any documents on which such reasons are based, state what steps SELP has taken to explore accommodations for Fibertech attachments; state how many poles SELP owns solely or jointly and of these, break down (a) the number of solely owned poles and the number of jointly owned poles; (b) the number of poles of each pole height used by SELP, (i.e., 35 feet, 45 feet, etc.).
11. Please confirm that SELP's denial of Fibertech's request for pole attachments was not for any reasons of safety. If so, please explain such reasons in detail and provide any documents on which these reasons are based.
12. Please confirm that SELP's denial of Fibertech's request for pole attachments was not for any reasons of reliability.
13. Please state whether Fibertech attachments have any impact on the reliability of SELP's poles or services. If so, please explain such reasons in detail and produce any documents on which such reasons are based.
14. Please confirm that SELP's denial of Fibertech's request for pole attachments was not as a result of generally applicable standards.
15. Please state whether any generally applicable standards preclude Fibertech attachments on

SELP poles. If so, please identify such standards and produce a copy thereof, and produce any documents supporting such reason.

16. Please state whether it is SELP's position that the wholesale provision of dark fiber is not a common-carrier telecommunications service subject to the authority of the Department of Telecommunications and Energy.
17. Please state whether the leasing of fiber optic capacity constitutes a common carrier service, and whether SELP is aware of telecommunications providers that offer such service. Identify any such providers. If SELP contends that such leasing does not constitute common carrier service, please state whether providers of such services identified are not common carriers by reason of providing such service.
18. Please refer to Paragraph 27 of the Response of Shrewsbury Electric Light Plant in this matter. State when, to whom, and in what form of words "Mr. Josie specifically asked Fibertech whether it was transmitting intelligence by telephone, electricity, or cable television signals."
19. Please refer to Paragraph 28 of the Response of Shrewsbury Electric Light Plant in this matter. Explain why the Global NAPs cases are irrelevant to the instant matter.
20. Please state whether it is SELP's position that a fiber optic cable pole attachment is not an "attachment" within the meaning of M.G.L. c. 166 § 25A and 220 C.M.R. 45.02. If so, explain the basis for SELP's position.
21. Please state whether "the conveniences, appliances, instrumentalities, or equipment pertaining thereto, or utilized in connection therewith" referred to in M.G.L. c. 159 § 12(d) include dark fiber facilities. If not, explain why not.

Respectfully submitted,

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OF COUNSEL:

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Rochester, New York 14618
(716) 697-5100

Dated: October 29, 2001

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I, Cameron F. Kerry, hereby certify that I have this 29th day of October, 2001, served the foregoing: First Set of Information Requests of Fiber Technologies Networks, L.L.C. to Town of Shrewsbury Electric Light Plant, upon on Kenneth Barna, Rubin and Rodman, LLP, 50 Rows Wharf, Boston, MA 02110; and Alan Mandl, Mandl & Mandl LLP, 10 Post Office Square, Suite 630, Boston, MA 02109, by mail.

LIT 1294148v1